

### **REMARKS**

Claims 1-29 were pending in the subject application. Applicant has hereinabove withdrawn claims 9-29 from consideration in response to a restriction requirement set forth by the Examiner. Claims 1 and 3 have been amended, and claim 2 has been cancelled.

Applicant maintains that these amendments to the claims do not raise any issue of new matter, and that these claims are supported by the specification as originally filed.

### **Election/Restrictions**

In the May 25, 2007 Office Action the Examiner accepted applicant's election made without traverse filed on April 23, 2007 wherein applicant withdrew claims 9-29 from consideration in the pending application.

### **Objection to the Drawings**

In the May 25, 2007 Office Action the Examiner objected to the drawings filed on November 26, 2003 because they are replete with minor informalities. For example:

Figures 11 and 13-15 - Title typographical errors.

Figures 18 through 45 - Improper handwritten text.

The Examiner has stated that in order for the applicant to avoid abandonment of this application, correction is required in reply to the Office Action and that the correction will not be held in abeyance.

In response, applicant submits replacement drawings, Figs. 1-45 as **Exhibit A**. Applicant maintains that this replacement drawing does not contain any new matter, and that this replacement drawing is supported by the specification as originally filed.

**Rejection under 35 U.S.C. 103(a)**

In the May 25, 2007 Office Action, the Examiner rejected claim 1 under 35 U.S.C. 103(a) as allegedly obvious in view of Berent (U.S. Patent No. 5,774,873) and Friedland (U.S. Patent No. 6,449,601). The Examiner has stated that Berent allegedly discloses an interactive vehicle auction and sale system comprising:

a plurality of computer (Berent: Fig 2, "2");

a computer network enabling communication between said plurality of computers (Berent: column 4, lines 17-29);

a plurality of user interface terminals in connection with said computer network, said terminals utilized to display an amount of auction and sales information and to input a series of auction bids (Berent: Fig. 2c);

a plurality of databases and corresponding database servers for storage of an amount of vehicle statistics (Berent: Fig 1, "9" and column 4, line 66 to column 5, line 20);

an input computer in communication with said network to receive and to route said amount of auction and sales information to a plurality of database servers (Berent: column 5, lines 20-24);

a network server in communication with said plurality of user interface terminals and said plurality of database servers, through said networks, said network server utilized to control said vehicle auction and sale system, coordinate said series of auction bids and maintain communication between said plurality of user interface terminals and a plurality of servers (Berent: Fig 1, "7")

an application server in communication with said network and said user interface terminals, said applications server containing a system software program

for operating said interactive vehicle auction and sale system (Berent: column 4, line 66 to column 5, line 14);

a vehicle image server in communication with said network and said user interface terminals, containing a plurality of electronic vehicle images to be accessed by said user terminals (Berent: column 10, line 19-32);

a template server in communication with said network and said user interface terminals, containing a plurality of templates to be accessed by said user interface terminals in conjunction with said system software program, an amount of data from said template server utilized as a plurality of interactive computer screens (Berent: Fig. 4b);

a plurality of mail servers in communication with said network said plurality of mailer servers utilized to receive an amount of auction and sales information from said users; said mail servers also utilized to respond to said users (Berent; column 5, lines 47-59); and

a plurality of protection mechanisms contained within said network to protect said database servers from unwanted access (Berent: column 4, lines 38-52).

The Examiner also states that Berent does not expressly disclose an interactive vehicle auction and sale

system comprising a web server. However, the Examiner alleges in a similar system, that Friedland discloses a system comprising a web server (Friedland: Fig 4). Furthermore, the Examiner allegedly states that at the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent to have included the teachings of Friedland, because the Internet has blossomed from a medium for simple data exchange and messaging to the fastest growing, most innovative medium for information exchange and commerce (Friedland: column 1, lines 13-34).

The Examiner further states that Berent does not expressly disclose a interactive vehicle auction and sale system comprising a video server in communication with said network and said user interface terminals, containing a plurality of video media to be accessed by said user terminals. In a similar system, Friedland disclose a video server in communication with said network and said user interface terminals, containing a plurality of video media to be accessed by said user terminals (Friedland: Column 8, lines 10-27). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent to have included the

teachings of Friedland, in order to improve the timeliness, quality, quantity, and, perhaps most importantly, the types of information the types of information that can be exchanged through the internet (Friedland: column 1, lines 35-49).

The Examiner also states that Berent does not expressly disclose a bank system connection in communication with said network to enable verification of a credit line of a vehicle purchaser. However, the Examiner alleges in a similarly system, Friedland discloses a bank system connection in communication with said network to enable verification of a credit line of vehicle purchase (Friedland: column 11, lines 20-37). Furthermore, the Examiner states that at the time the invention was made it would have been obvious for a person of ordinary skill in the art to have modifies the system Berent to have included the teachings of Friedland, because the internet has blossomed from a medium for simple data exchange and messaging the fastest growing, most innovative medium for information exchange and commerce (Friedland: column 1, lines 13-34).

## **Response**

In response to the Examiner's rejections, applicant respectfully traverses on the ground that a prima facie case of obviousness cannot be established for the amended claims.

Under MPEP §2143, to establish a prima facie case of obviousness the cited references must teach or suggest every element of the claims.

Applicant has amended claim 1 to incorporate an auction timer wherein said auction timer controls an amount of time allotted for said interactive vehicle auction and a readout of said timer is displayed on said user interface terminals. Neither Berent nor Friedland teach or disclose an auction timer. Therefore, the rejection of claim 1 over Berent and Friedland has been obviated, and applicant respectfully requests the Examiner to remove this rejection.

**Rejection under 35 U.S.C. 103(a)**

In the May 25, 2007 Office Action, the Examiner rejected claims 2-8 over Berent (US Pat. No. 5,774,873) in view of Friedland (US Pat. No. 6,449,601) and in further view of Alaia (US Pat. App. No. 2002/0046148)

The Examiner states that Berent in view of Friedland discloses a system according to claim 1 as indicated supra. However, the Examiner also states that neither Berent nor Friedland disclose the use of an auction timer.

The Examiner alleges that Alaia, in a similar system, discloses an auction timer that controls an amount of time allotted for an interactive auction and a readout of said timer displayed on a user interface (Alaia: paragraph 0040).

The Examiner further alleges that Alaia further discloses a system wherein, an auction timer controls an amount of time allotted for said interactive vehicle auction and a readout of said timer is displayed on said user interface terminals (Alaia: paragraph 0400).



The Examiner also allegedly states that Alaia further discloses a system wherein, said auction timer automatically resets upon entry of a bid value higher than a currently pending highest bid value (Alaia: paragraph 0400).

The Examiner also alleges that Alaia further discloses a system wherein, upon expiration of said auction timer, system user corresponding to said highest bid value entered in said interactive vehicle auction wins said interactive vehicle auction (Alaia: paragraph 0400).

The Examiner further alleges that Alaia further discloses a system wherein, upon expiration of said auction timer, an electronic mail transmission is sent to said system user corresponding to said highest bid value (Alaia: paragraph 0400).

The Examiner further alleges that Alaia further discloses a system wherein; said auction timer commences a count down process from a value of one minute (Alaia: paragraph 0040). The Examiner notes, the specific minute value utilized within the count down process does not structurally affect the claimed system and that said value will not distinguish

the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F. 2d, 1381, 217 USPQ 401, 404 (Fed. Cir. 1983).

Lastly, the Examiner alleges that at the time the invention was made it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent and Friedland to have included the timing feature of Alaia because many structures are biased towards the supplier offering the electronic market and as such procurement costs can be further lowered with an unbiased electronic market that promotes competition (Alaia: paragraph 0006).

### **Response**

In response to the Examiner's rejections, applicant respectfully traverses on the ground that a prima facie case of obviousness cannot be established for the amended claims.

Under MPEP §2143, to establish a prima facie case of obviousness the cited references must teach or suggest every element of the claims.

Applicant's pending application claims the benefit in the form of a continuation-in-part under 37 C.F.R. 1.53(b)(1) of parent application, Serial Number 09/649,876 filed August 28, 2000 by applicant. Applicant's parent application possesses a filing date of August 28, 2000 which predates the filing date of Alaia, April 11, 2001 by more than seven months. As evidenced below, applicant clearly disclosed an auction timer for use in applicant's overall system in parent application, Serial No. 09/649,876 which the pending application claims the benefit of and is attached hereto as **Exhibit B**. Initially, applicant directs the Examiner to the following excerpt which states

In comparison with the prior art systems, the present invention realizes innovations in the auction process such as establishing an auction timer, which is designed to reset once a bid higher in value than the highest bid on record is placed.

*Summary of the Invention*, pg. 3 line 1 through line 3.

If the user chooses, he may still actively participate in the auction using the Confirm Bid screen (FIG. 29). This screen gives the user a series of information regarding the active auction. The time remaining on the timer **70**, total number of bids **71**, and the top ten bids **72** are listed in the respective boxes. The timer **70** states at 2:00 minutes and counts down until a new bid that is greater than the bid in field one

is put forth. If there are no bids greater than the value in field one, then the clock runs to zero. If a bid higher than the bid in field one is entered, the timer then resets at 4 minutes, 2 minutes, 1 minute and this evolution occurs until the timer **70** runs out.

*Detailed Description of the Preferred Embodiments, page 14,*  
line 7 through line 14 (emphasis added).

Directly below the vehicle information box is located a Start Time box 95 and Timer box 96. The Start Time box 95 allows a user to recognize at what time the auction actually starts, in case there is fluctuation from the scheduled start time. The Timer box 96 notifies the user of the amount of time left for bidding before the existing highest bid is named a winner. Located to the right of the Start Time box 95 and Timer box 96 is the Top Ten bids list 97. This table is illustrated in FIG 1.1 and serves as a real time output of the auction process so that the user may see how the bidding system works.

The auction timer controls the amount of time allotted for said auction process. A readout of the timer is displayed on said user interface terminals. The auction timer automatically resets upon entry of a bid higher than the previous highest bid.

The auction timer can be set for any interval.

*Detailed Description of the Preferred Embodiments, pg. 17,*  
line 1 through line 14 (emphasis added).

Therefore, it is clear that applicant disclosed an auction timer in parent application, Serial No. 09/649,876, which the pending application claims benefit. Applicant's

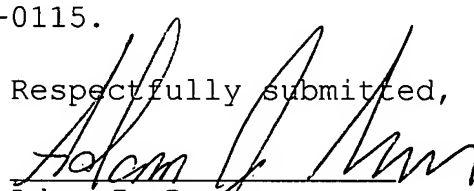
original disclosure of an auction timer predates the disclosure of Alaia **by more than seven months** and therefore cannot be cited as prior art to form a rejection under 35 U.S.C. 103(a) for pending claims 3-8.

In view of the applicant's remarks and amendments to the claims, applicant respectfully requests the Examiner to remove this ground of rejection.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorney invites the Examiner to contact them at the number provided below.

No fee is deemed necessary in connection with the filing of this Amendment. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to the Deposit Account 12-0115.

Respectfully submitted,



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# EXHIBIT A